

REMARKS

Applicant has carefully reviewed the Office Action dated November 30, 2005. New Claims 27 - 37 have been added. Reconsideration and favorable action is respectfully requested.

Double Patenting

Claims 1-26 stand provisionally rejected under the doctrine of obviousness-type double patenting as being unpatentable over Claims 1-16, 18-33 and 35 of co-pending application 09/614,937. The Examiner found that, although the conflicting claims are not identical, they are not patentably distinct from each other because the context of the claimed invention is the same as the context of the cited claims of the co-pending U.S. Application.

Applicant notes that a Terminal Disclaimer may be required in conjunction with this case when the claims of serial number 09/614,937 are issued, but the final state of these claim is not determined as of yet. Therefore, this matter will remain provisional until such happens.

Obviousness

Claims 1-26 stand rejected under 35 U.S.C. 103(a) as being unpatentable over *Buckley et al.* (US Pat. No. 6,446,871) in view of *Schmitt et al.* (US Pat. No. 6,359,711). Applicant respectfully submits that US Pat. No. 6,359,711 is not *Schmitt et al.*; rather, US Pat. No. 5,903,225 is *Schmitt et al.*, while US Pat. No. 6,359,711 belongs to *Cole*.

The examiner has provided the *Schmitt* reference, US Pat. No. 5,903,225, for use in combination with the *Buckley et al.* reference. However, the examiner had noted, Applicant believes incorrectly, that the *Schmitt et al.* patent bore a patent number of 6,359,711. Applicant believes that this is incorrect, as the patent number of *Schmitt* is 5,903,225. For the purpose of this Response, Applicant is proceeding with the assumption that the examiner was referring to the *Schmitt et al.* reference.

As noted herein before, the *Buckley* reference lacks the unique code that uniquely identifies the

AMENDMENT AND RESPONSE

S/N 09/659,520

Atty. Dkt. No. PHL Y-25,355

triggering device, the unique code having no location information therein.

The *Schmitt et al.* reference is a reference that provides a passive transponder with a data store provided therein, this referred to by the reference numeral "227." This data store is an area of the transponder that is programmable, such that the transponder (207) can be inserted into a slot on a programming device (202). This is described at the beginning of column 12, line 5. The purpose for programming this is to program authorization data in the transponder. Therefore, Applicant believes that there is no code or information that uniquely identifies the transponder but, rather, it uniquely identifies the user of the transponder. The entire method of operating this is summarized in column 13, beginning at line 54 as follows:

A method aspect of the present invention is for access control at an access location **230**. The method preferably comprises the steps of: sensing a fingerprint of a person and enrolling the person as an authorized person **225** based upon the sensed fingerprint; storing authorization data for an authorized person in an access triggering device **207** to be carried by the authorized person; transmitting an authorization signal related to the stored authorization data; and receiving the authorization signal and granting access to an authorized person bearing the access triggering device based upon the access triggering device being in proximity to the access location **230**.

It can thus be seen that the transponder in *Schmitt* does not provide a triggering device that has a unique code disposed therein, and this unique code being such that it would identify the triggering device. Further, this unique code must somehow be associated with a remote location on the network. First, *Schmitt* does not show the association of a unique code that uniquely identifies a transponder. However, even more important, there is no disclosure or discussion wherein such a unique code, if it existed, would be utilized to access a location on a network, in that the unique code is associated with the network location. Applicant also notes that transponders, specifically passive transponders, have existed for many years and they basically have contained therein a unique code that will be extracted when the transponder passes by a station. The station is operable to power the transponder and receive the code and utilize that code for gaining access, such as door access, payment of a toll, access to a

AMENDMENT AND RESPONSE

S/N 09/659,520

Atty. Dkt. No. PHL-25,355

parking garage, etc. However, the mere existence of a unique code that is permanently embedded within a chip associated with a transponder does not necessarily indicate to that such code would be the code that is utilized for comparison to a relational database for the purpose of accessing a particular web page. The *Buckley et al.* references discloses a device that cannot be utilized with a unique code for accessing a web page merely by passing by a kiosk or a station, wherein it is a unique code that causes access to the web page, as opposed to data that is input thereto by the user. In the present disclosure, as defined by the amended claims, the unique code is what is utilized for the purpose of accessing information on a particular location. These unique codes have a primary purpose and that is for identifying the transponder. It is the use of this code for access to a web page that is not disclosed or suggested in either *Buckley* or *Schmitt* individually or in combination. Also, there is no suggestion that the existence of a code for gaining access in *Schmitt*, would teach an individual viewing the *Buckley* reference to utilize that code to access a web page. Therefore, Applicant respectfully requests to withdraw the 35 U.S.C. Section 103 with respect to claims 1-26.

Applicant has now made an earnest attempt in order to place this case in condition for allowance. For the reasons stated above, Applicant respectfully requests full allowance of the claims as amended. Please charge any additional fees or deficiencies in fees or credit any overpayment to Deposit Account No. 20-0780/PHLY-25,355 of HOWISON & ARNOTT, L.L.P.

Respectfully submitted,
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AMENDMENT AND RESPONSE
S/N 09/659,520
Atty. Dkt. No. PHLY-25,355